

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EARL DAVIS, SR.,

Plaintiff,

v.

S. REED, R. VINCENT, and E. CLOAK,

Defendants.

Case No. 1:22-cv-01632-JLT-HBK (PC)

ORDER GRANTING PLAINTIFF'S
CONSTRUED MOTION FOR
RECONSIDERATION

(Doc. No. 60)

ORDER VACATING DECEMBER 8, 2023
ORDER

(Doc. No. 57)

Pending before the Court is pro se Plaintiff's construed motion requesting the Court to reconsider its December 8, 2023 Order directing Plaintiff to pay the filing fee due to his release from prison. (Doc. No. 60). Plaintiff disputes that he owes a fee balance in this case and asks the Court to verify his payment history. For the reasons set forth below, the Court grants Plaintiff's construed motion for reconsideration.

On December 8, 2023, upon Plaintiff's release from CDCR custody, the Court issued an order directing Plaintiff, if he wished to proceed with this case, to either pay the balance of his filing fee or file an updated application to proceed *in forma pauperis*. (Doc. No. 57). Prior to issuing the Order, the Court had contacted the finance department and was advised that Plaintiff owed a fee balance of \$350.00 for this action. (*Id.* at 3). Plaintiff contends that he has in fact paid the full fees on this case through withdrawals from his CDCR trust account. (Doc. No. 60).

1 Federal Rule of Civil Procedure 59(e) permits a party to move a court to alter or amend its
2 judgment. “A district court may grant a Rule 59(e) motion if it ‘is presented with newly discovered
3 evidence, committed *clear error*, or if there is an intervening change in the controlling law.’” *Wood*
4 *v. Ryan*, 759 F.3d 1117, 1121 (9th Cir. 2014) (internal quotation marks, citation omitted) (emphasis
5 in original). After conferring with the finance department and re-reviewing Plaintiff’s payment
6 history, the Court confirms that Plaintiff has paid his filing fees in full for this action and has no
7 balance remaining. Consequently, the Court finds that its December 8, 2023 Order stating that
8 Plaintiff still owed the full filing fee for this action was clear error.

9 Accordingly, it is hereby **ORDERED**:

- 10 1. Plaintiff’s construed motion for reconsideration (Doc. No. 60) is GRANTED.
- 11 2. The Court VACATES its December 8, 2023 Order (Doc. No. 57) as Plaintiff does not
12 owe a fee balance on this case.

13
14 Dated: January 16, 2024


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE